

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #6	CCRB Case #: 201906594	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/28/2019 4:00 PM	Location of Incident: § 87(2)(b) 94th Precinct stationhouse	Precinct: 94	18 Mo. SOL 1/28/2021	EO SOL 9/14/2021	
Date/Time CV Reported Sun, 07/28/2019 6:44 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 07/28/2019 6:44 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Asad Ullah	07269	963785	094 PCT
2. POM Andrew Lau	29282	965255	094 PCT
3. POM Samuel Payano	24048	963203	094 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gilbert Sosa	25330	963288	094 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Andrew Lau	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau frisked § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
B.POM Asad Ullah	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah searched the vehicle in which § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) were occupants.	§ 87(2)(b)
C.POM Andrew Lau	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau interfered with § 87(2)(b) § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
D.POM Asad Ullah	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah interfered with § 87(2)(b) § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
E.POM Asad Ullah	Force: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
F.POM Samuel Payano	Force: At § 87(2)(b) in Brooklyn, Police Officer Samuel Payano used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
G.POM Asad Ullah	Force: At § 87(2)(b) in Brooklyn, Police Officer Samuel Payano used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.POM Andrew Lau	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau seized § 87(2)(b)'s property.	
I.POM Asad Ullah	Abuse: At the 94th Precinct stationhouse, Police Officer Asad Ullah searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

### Case Summary

On July 28, 2019, § 87(2)(b) filed this complaint on the CCRB's website, on behalf of her daughter, § 87(2)(b) and her boyfriend, § 87(2)(b) did not witness the incident.

On July 28, 2019, at approximately 4:00 p.m., § 87(2)(b) was stopped for a seatbelt violation by PO Asad Ullah and PO Andrew Lau, of the 94<sup>th</sup> Precinct, at § 87(2)(b) in Brooklyn. PO Ullah told § 87(2)(b) and § 87(2)(b) to exit the vehicle, and PO Lau frisked § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Ullah searched § 87(2)(b)'s vehicle (**Allegation B: Abuse of Authority**, § 87(2)(g) As § 87(2)(b) recorded the interaction with her cell phone, PO Lau allegedly stood in front of her to prevent her from recording and PO Ullah allegedly pushed her and stated that she could not record (**Allegations C and D: Abuse of Authority**, § 87(2)(g) § 87(2)(b)'s license was suspended and he was placed under arrest with the assistance of responding officers, PO Samuel Payano and PO Gilbert Sosa, of the 94<sup>th</sup> Precinct, § 87(2)(b) approached § 87(2)(b) who was handcuffed, and tried to take money from his pockets. PO Ullah then grabbed § 87(2)(b)'s arm and led her toward the sidewalk (**Allegation E: Force**, § 87(2)(g) § 87(2)(b) sat in the front passenger seat of § 87(2)(b)'s vehicle, and PO Payano grabbed her arm and wrist (**Allegation F: Force**, § 87(2)(g) PO Ullah grabbed § 87(2)(b)'s right arm and pulled her out of the vehicle (**Allegation G: Force**, § 87(2)(g) and she was arrested. PO Lau drove § 87(2)(b)'s vehicle to the 94<sup>th</sup> Precinct stationhouse, where it was searched by PO Ullah (**Allegations H and I: Abuse of Authority**, § 87(2)(g)

§ 87(2)(b) was charged with two counts of operating a motor vehicle without a license and a seatbelt violation (BR 01). § 87(2)(b) was charged with § 87(2)(a) 160.50, § 87(2)(b) (BR 02). § 87(2)(b) ultimately pleaded guilty to one count of operating a motor vehicle without a license and § 87(2)(b)'s charges were dropped.

Body-worn camera (BWC) footage recorded by PO Ullah, PO Lau, PO Payano, and PO Sosa, and cell phone footage recorded by § 87(2)(b) and § 87(2)(b) who witnessed part of the incident, were obtained (BR 03-13).

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau frisked § 87(2)(b)**

It is undisputed that PO Lau frisked § 87(2)(b) after he exited his vehicle. In PO Lau's BWC footage (BR 04), at the 00:35 mark in the video player, PO Lau approached the passenger side of § 87(2)(b)'s vehicle. The passenger side windows were not rolled down. PO Ullah stood on the driver's side, where § 87(2)(b) was seated, but no conversation was audible. At the 01:16 mark, § 87(2)(b) exited the vehicle. At the 01:34 mark, while PO Ullah faced PO Lau, he gestured toward § 87(2)(b) Ramanrain. PO Lau then approached § 87(2)(b) and at the 01:39 mark, PO Lau frisked § 87(2)(b)'s sides and shorts pockets, which lasted for approximately five seconds. There was no discussion about marijuana or the odor of marijuana.

Neither § 87(2)(b) (BR 14-16) nor § 87(2)(b) (BR 17), who provided a brief phone statement but was ultimately deemed uncooperative with the investigation, alleged that § 87(2)(b) was frisked prior to his arrest.

PO Lau (BR 18) testified that while § 87(2)(b)'s vehicle was stopped, he stood on the passenger side of the vehicle and PO Ullah stood on the driver's side, where § 87(2)(b) was

seated. The passenger side windows were not rolled down, and PO Lau could not hear any conversation between PO Ullah and § 87(2)(b) and § 87(2)(b) and § 87(2)(b) exited the vehicle, and he frisked § 87(2)(b)'s torso and hip areas for his own safety. PO Lau had not observed any bulge or any items in § 87(2)(b)'s pockets. Prior to the frisk, § 87(2)(b) had not made any movements. PO Lau had not previously interacted with § 87(2)(b) but knew that he had a prior firearm conviction, based upon information that was provided at the precinct. He did not recall any specific information regarding this conviction. PO Lau did not smell an odor of marijuana, but he assumed that PO Ullah ordered § 87(2)(b) and § 87(2)(b) out of the vehicle and subsequently searched the vehicle because he detected such an odor. There was no other reason that PO Lau believed there may have been an odor of marijuana. PO Ullah did not say anything about the odor of marijuana and the officers did not have any such discussion. PO Lau also believed that § 87(2)(b) may have had a weapon because drugs are generally associated with weapons. Up to that point, PO Lau did not suspect that § 87(2)(b) committed any crime or violation aside from the VTL violation.

PO Ullah (BR 19) testified that when he initially approached § 87(2)(b)'s vehicle, he detected an odor of marijuana emanating from the vehicle. PO Ullah did not think that he discussed the odor of marijuana with PO Lau. He did not recall whether PO Lau frisked § 87(2)(b). When presented with his BWC footage, which depicted his gesture to PO Lau and PO Lau's subsequent frisk of § 87(2)(b), PO Ullah confirmed that he gestured to PO Lau to watch § 87(2)(b) while he searched the vehicle. The gesture was not meant to indicate to PO Lau that he should frisk § 87(2)(b).

A frisk is authorized when the member of the service reasonably suspects the person is armed and dangerous, which may only be conducted during a level three "Terry stop." This includes scenarios in which the officer reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the officer observes something on the person that he or she suspects is a weapon. Reasonable suspicion must be based upon a particularized and objective basis, in which the officer must be able to articulate specific facts establishing justification for the action; "hunches or gut feelings are not sufficient." Under the level two common law right of inquiry, an officer who has founded suspicion of criminality may approach an individual and ask accusatory questions. Founded suspicion is a lower level of suspicion than the reasonable suspicion required to conduct a level three stop. NYPD Patrol Guide, Procedure 212-11 (BR 20).

Knowledge of an individual's prior criminal record may be relevant in determining whether an officer's conduct is reasonable under the Fourth Amendment. However, "an officer's mere unscientific guess as to a person's propensity to commit crimes, without some objective indicia that a crime has taken, will take, or may be taking place" is insufficient for the founded suspicion required to ask accusatory questions regarding a civilian's conduct. People v. Boulware, 130 A.D.2d 370 (1987) (BR 21). The odor of marijuana emanating from a vehicle, when detected by an officer qualified by training and experience to recognize it, is sufficient to constitute probable cause to search a vehicle and its occupants. People v. Cuffie, 109 AD3d 1200 (2013) (BR 22).

§ 87(2)(b), § 87(2)(g)  
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**Allegation (B) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah searched the vehicle in which § 87(2)(b) and § 87(2)(b) Duran-§ 87(2)(b) were occupants.**

It is undisputed that PO Ullah searched § 87(2)(b)'s vehicle. In PO Ullah's BWC footage (BR 03), at the 00:35 mark in the video player, PO Ullah approached the vehicle, told § 87(2)(b) that he was being stopped for not wearing a seatbelt, and asked for his vehicle documentation. At the 01:01 mark, PO Ullah asked § 87(2)(b) to step out of the vehicle because he smelled marijuana and was going to check the vehicle. PO Ullah searched the vehicle from the 01:46 mark until the 04:28 mark, including the driver and passenger sides, glove compartment, center console, and around the seats.

§ 87(2)(b) testified that after § 87(2)(b) was arrested for a suspended license, PO Ullah searched the front and back seats, the center console, and the trunk of § 87(2)(b)'s vehicle. PO Ullah also searched § 87(2)(b)'s work uniform, which was in a plastic bag in the backseat. To her knowledge, nothing was recovered during the search. At the 94<sup>th</sup> Precinct stationhouse, PO Ullah stated that he found marijuana in a book in § 87(2)(b)'s vehicle. It was a very small amount of marijuana that § 87(2)(b) described as "crumbs" and not a fully rolled joint. § 87(2)(b) took responsibility for the marijuana.

§ 87(2)(b) stated that PO Ullah explained that he smelled marijuana and then searched the vehicle. § 87(2)(b) objected to this search, because he was only pulled over for not wearing a seatbelt. To his knowledge, nothing was recovered from the vehicle search.

PO Ullah testified that as he approached the driver's side of § 87(2)(b)'s vehicle, approximately an arm's length away from the vehicle, he smelled an odor of unburnt marijuana emanating from the vehicle. At the time, the front driver's side window was down. PO Ullah continued to smell marijuana throughout the interaction. PO Ullah told § 87(2)(b) and § 87(2)(b) to exit the vehicle. He searched the entire vehicle, including underneath the driver's seat, in the glove compartment, in the center console, and behind the driver's and passenger's seats, which lasted approximately three to five minutes. PO Ullah's intention was to determine whether any marijuana violation had been committed. Nothing was recovered from that search, but he subsequently found loose marijuana when he conducted an inventory search of the vehicle at the stationhouse.

PO Lau testified that PO Ullah searched § 87(2)(b)'s entire vehicle. PO Lau did not detect an odor of marijuana, but he assumed that PO Ullah detected such an odor, which is why he told § 87(2)(b) and § 87(2)(b) to exit the vehicle and why he searched the vehicle.

One unlit marijuana cigarette was vouchered by PO Ullah (BR 23). § 87(2)(b) was charged with unlawful possession of marijuana (BR 02). In his memo book, PO Ullah documented the vehicle stop and wrote: "Smelled marijuana, searched car" (BR 24).

The odor of marihuana emanating from a vehicle, when detected by an officer qualified by training and experience to recognize it, is sufficient to constitute probable cause to search a vehicle and its occupants. People v. Cuffie, 109 AD3d 1200 (2013) (BR 22).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau interfered with § 87(2)(b) § 87(2)(b) s use of a recording device.**

**Allegation (D) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah interfered with § 87(2)(b) § 87(2)(b) s use of a recording device.**

In PO Ullah's BWC footage (BR 03), at the 02:07 mark in the video player, § 87(2)(b) Duran-§ 87(2)(b) approached PO Ullah as he searched § 87(2)(b) s vehicle, while she recorded with her cell phone. She stood approximately one or two feet away from PO Ullah. PO Ullah told § 87(2)(b) that she could record but needed to back up so that he could do his job. § 87(2)(b) moved back and appeared to still be recording. At the 03:33 mark, § 87(2)(b) Duran-§ 87(2)(b) approached PO Ullah again and PO Ullah stated that § 87(2)(b) § 87(2)(b) could record but needed to do so from a distance because he did not feel safe with her proximity. § 87(2)(b) then backed up a few feet. PO Ullah did not make any physical contact with § 87(2)(b) or push her.

In PO Lau's BWC footage (BR 04), at the 13:31 mark in the video player, as § 87(2)(b) § 87(2)(b) recorded the interaction, she walked toward § 87(2)(b) who was handcuffed. PO Lau stood a few feet away from § 87(2)(b) § 87(2)(b) and she stated that PO Lau tried to cover her camera. PO Lau replied that he was just trying to ensure that she did not approach § 87(2)(b) § 87(2)(b) again and that she could record if she wanted to. PO Lau did not put his arms in front of § 87(2)(b) § 87(2)(b) s camera. This portion of the incident is partially visible in § 87(2)(b) cell phone footage (BR 10), from the 00:00 mark to the 00:19 mark. PO Lau stood in between § 87(2)(b) § 87(2)(b) and the officers, but did not physically interfere with her recording.

§ 87(2)(b) testified that when PO Ullah began searching the vehicle, she recorded the search with her cell phone. PO Ullah told § 87(2)(b) to put her phone away. Additionally, PO Ullah pushed § 87(2)(b) several times around her shoulder or chest. These pushes did not cause § 87(2)(b) to fall or stumble, but interfered with her ability to record the interaction. PO Lau stood in front of § 87(2)(b) to prevent her from recording and put his arms in front of the camera. § 87(2)(b) was able to record, but there were gaps in her recordings because of PO Lau's and PO Ullah's actions. She provided the investigation with three short video clips, but was unable to provide additional videos because her phone was in police custody.

PO Ullah's and PO Lau's § 87(2)(g) They both testified that civilians can record interactions with officers any time, and specified that § 87(2)(b) was allowed to record, but was told to move back because of her proximity to the officers. PO Ullah testified that he did not tell § 87(2)(b) that she could not record. PO Ullah did not think that he saw PO Lau stand in front of § 87(2)(b) and he did not see PO Lau put his arm in front of § 87(2)(b)'s camera. PO Lau testified that he did not put his arms or hands in front of § 87(2)(b)'s camera and did not stand in front of her camera while she recorded. PO Lau did not recall whether PO Ullah told § 87(2)(b) that she could not record.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (E) Force: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah used physical force against § 87(2)(b) § 87(2)(b)**

In PO Lau's BWC footage (BR 04), at the 11:29 mark in the video player, § 87(2)(b) approached § 87(2)(b) who was handcuffed, and stated that she would take his money. Several officers stated that § 87(2)(b) needed to back up. At the 11:38 mark, PO Ullah grabbed § 87(2)(b) left upper arm with his right hand and led her toward the sidewalk. At the 11:53 mark, § 87(2)(b) stated that PO Ullah scratched her.

§ 87(2)(b) testified that after § 87(2)(b) was arrested, as officers removed money from § 87(2)(b)'s pockets, some of it fell onto the ground. § 87(2)(b) asked PO Ullah and PO Payano to give her § 87(2)(b)'s money. PO Ullah and PO Lau replied no and told her to back up. PO Ullah then pushed her, which caused her to take a few steps back.

PO Ullah testified that as officers searched § 87(2)(b) § 87(2)(b) got very close and tried to grab money from his pockets. PO Ullah and other officers told § 87(2)(b) to move back. He either pushed or grabbed § 87(2)(b) and led her away, because she got too close to § 87(2)(b). Officers must voucher an arrestee's property at the precinct.

PO Lau testified that § 87(2)(b) attempted to take § 87(2)(b)'s property from his pockets and was told that she could not. Aside from verbal commands, no other action was taken by any officer. PO Ullah did not grab § 87(2)(b)'s upper arm or push her.

PO Payano testified (BR 25) that § 87(2)(b) got close enough to § 87(2)(b) to touch his thigh. PO Payano told her to move back and guided her wrist away from § 87(2)(b). PO Payano did not recall whether PO Ullah grabbed § 87(2)(b) by her arm. PO Ullah did not push § 87(2)(b).

TRIs prepared by PO Ullah, PO Lau, and PO Payano solely documented that they used unspecified force while placing § 87(2)(b) under arrest (BR 26-28).

After an arrest has been effected and the prisoner has been handcuffed, immediately frisk and search prisoner for weapons, evidence, and/or contraband. NYPD Patrol Guide, Procedure 208-03 (BR 29). Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (BR 30).

§ 87(2)(b), § 87(2)(g)

**Allegation (F) Force: At § 87(2)(b) in Brooklyn, Police Officer Samuel Payano used physical force against § 87(2)(b), § 87(2)(b)**

**Allegation (G) Force: At § 87(2)(b) in Brooklyn, Police Officer Asad Ullah used physical force against § 87(2)(b), § 87(2)(b)**

In PO Payano's BWC footage (BR 07), at the 00:17 mark in the video player, PO Payano followed § 87(2)(b) as she walked toward § 87(2)(b)'s vehicle and subsequently sat in the front passenger seat. § 87(2)(b) stated that she was taking the car keys and appeared to reach toward something in the vehicle. PO Payano repeatedly told § 87(2)(b) to give him the keys, and § 87(2)(b) yelled that she was not under arrest and that PO Payano touched her. It is not visible what physical contact, if any, PO Payano made with § 87(2)(b). At the 00:41 mark, PO Payano stated that § 87(2)(b) Duran § 87(2)(b) had to be arrested and told her to put her hands behind her back. § 87(2)(b) replied no and told PO Payano to get away from her. At the 01:17 mark, an officer who is off screen pulled § 87(2)(b) out of the vehicle. This is captured in cell phone video footage recorded by § 87(2)(b) (BR 13), at the 00:36 mark in the video player. PO Ullah grabbed § 87(2)(b)'s right arm with his right hand and pulled her out of the vehicle. She initially landed on her feet and then knelt onto the sidewalk. § 87(2)(b) moved around to prevent the officers from arresting her, but was ultimately handcuffed by PO Ullah, PO Payano, and PO Lau.

§ 87(2)(b) testified that after § 87(2)(b) was arrested, she entered the passenger side of his vehicle to get her work uniform. As she was not under arrest, she did not believe that anything prevented her from entering the vehicle. PO Payano told § 87(2)(b) to exit the vehicle and she refused because she did not understand why she needed to do so. As § 87(2)(b) reached into the backseat for her work uniform, PO Payano pulled her right arm and attempted to pull her out of the vehicle. Additionally, PO Payano grabbed § 87(2)(b)'s upper arm and wrist in a manner that she described as "roughing up." PO Ullah then pulled § 87(2)(b) out of the vehicle by one arm and she fell onto her knees on the sidewalk. Ullah, PO Payano, and PO Lau then handcuffed her and picked her up from the ground. § 87(2)(b) sustained scrapes on her knees, which were bleeding, bruising on her arms, and had neck and knee pain. At the stationhouse, EMTs were called, and they cleaned her scrapes and gave her icepacks. She refused to go to the hospital because of anxiety.

PO Payano's § 87(2)(g) He clarified that § 87(2)(b)'s vehicle was considered part of the officers' investigation and needed to be taken into custody. PO Payano did not recall whether he grabbed § 87(2)(b)'s arm or wrist. When PO Ullah approached the vehicle, he and PO Ullah mutually decided that § 87(2)(b)



§ 87(2)(b) was going to be placed under arrest. PO Ullah then grabbed § 87(2)(b)'s arm and pulled her out of the vehicle. After § 87(2)(b) was handcuffed, PO Payano did not observe any physical injuries, and she did not complain about any injuries.

§ 87(2)(g) PO Ullah did not know whether PO Payano pulled or grabbed § 87(2)(b) arm or wrist. After he and PO Payano issued several commands and § 87(2)(b) refused to exit the vehicle, they decided to arrest her. PO Ullah grabbed § 87(2)(b) right wrist, with one hand, and pulled her out of the vehicle, which was the minimum amount of force needed to remove her from the vehicle. PO Ullah did not observe any physical injuries sustained by § 87(2)(b). At the stationhouse, she requested medical treatment and an ambulance was called, but she refused to go to the hospital.

In a TRI prepared by PO Ullah (BR 26), he documented that he used unspecified force while handcuffing § 87(2)(b) who actively and violently resisted arrest. She complained of knee and back pain. Officers offered medical attention to § 87(2)(b) but she refused treatment. PO Payano and PO Lau prepared analogous TRIs (BR 27-28).

When an arrest is made for aggravated unlicensed operation of a motor vehicle in the first or second degree, and a person other than the operator is the registered owner and such person, or another person authorized to operate the vehicle, is not present, an officer shall remove the vehicle to a place of safety. NYS Vehicle and Traffic Law § 511-B (BR 31). A person is guilty of obstructing governmental administration (OGA) when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or attempts to prevent a public servant from performing an official function. New York Penal Law § 195.05 (BR 32). Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (BR 30).

§ 87(2)(b), § 87(2)(g)  
[REDACTED]

[REDACTED]

**Allegation (H) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Andrew Lau seized § 87(2)(b)'s property.**

**Allegation (I) Abuse of Authority: At the 94<sup>th</sup> Precinct stationhouse, Police Officer Asad Ullah searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that PO Lau drove § 87(2)(b)'s vehicle to the 94<sup>th</sup> Precinct stationhouse and that PO Ullah conducted an inventory search of the vehicle at the stationhouse. PO Lau's seizure of

§ 87(2)(b)'s vehicle is captured at the 22:51 mark in the video player of his BWC footage (BR 04). The inventory search was not recorded on BWC or another video source.

§ 87(2)(b) testified an unknown officer transported § 87(2)(b)'s vehicle to the stationhouse. At the stationhouse, PO Ullah stated that he found a marijuana blunt in a book in § 87(2)(b)'s vehicle. § 87(2)(b) took responsibility for the marijuana.

§ 87(2)(b) stated that an officer transported his vehicle back to the stationhouse and searched the entire vehicle. Officers claimed to have found a “nugget” of marijuana inside of a book in the vehicle.

PO Lau testified that as per procedure, given that § 87(2)(b)'s license was suspended, he drove the vehicle to the stationhouse. PO Lau did not conduct an inventory search of the vehicle and did not know whether PO Ullah did.

PO Ullah testified that an officer, possibly PO Lau, drove § 87(2)(b)'s vehicle back to the stationhouse. The vehicle was registered to § 87(2)(b)'s sister and was involved in an arrest, so it needed to be taken into police custody. At the stationhouse, PO Ullah conducted an inventory search and found a very small amount of loose marijuana, in a vegetative state, in the passenger side door in the vehicle. PO Ullah vouchered the marijuana as arrest evidence and vouchered other items, which he did not recall, for safekeeping.

§ 87(2)(b)'s vehicle was vouchered for safekeeping, per property voucher #§ 87(2)(b) by PO Ullah and returned the same day to the registered owner, § 87(2)(b). Property voucher #§ 87(2)(b) lists clothing that was recovered from the inventory search and vouchered (BR 23).

When an arrest is made for aggravated unlicensed operation of a motor vehicle in the first or second degree, and a person other than the operator is the registered owner and such person, or another person authorized to operate the vehicle, is not present, an officer shall remove the vehicle to a place of safety. NYS Vehicle and Traffic Law § 511-B (BR 31). In order to ensure against theft and protect members of service, when a vehicle comes into police custody, the interior of the vehicle should be searched thoroughly and any valuables should be removed and vouchered. NYPD Patrol Guide, Procedure 218-13 (BR 33).

§ 87(2)(b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to one CCRB complaint and has been named a victim in three allegations (BR 34).
  - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 35).
- PO Ullah has been a member of service for three years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
- PO Lau has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Payano has been a member of service for three years and has been a subject in one CCRB complaint and one allegation, none of which were substantiated. § 87(2)(g)

## Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming face, neck, back, hands, and arm injuries, psychological injuries, conscious pain and suffering, mental anguish, loss of personal freedom, and harm to reputation and seeking an amount in excess of the jurisdictional limits of all lower courts as redress (BR 36). There is no 50H hearing scheduled.
- As of April 3, 2020, the NYC Comptroller's Office has no record of a Notice of Claim being filed by § 87(2)(b) in regard to this complaint (BR 37).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 38).
- § 87(2)(b)
- (BR 39).

Squad No.: 6

Investigator: Laura Strauss Inv. Laura Strauss 04/22/2020  
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 4/23/2020  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_